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7 **UNITED STATES DISTRICT COURT**
8 **WESTERN DISTRICT OF WASHINGTON**
9
10 **AT TACOMA**

11 **STEPHANIE WILSON,**) Case No.
12)
13 Plaintiff,) **COMPLAINT FOR VIOLATION**
14) **OF FEDERAL FAIR DEBT**
15 vs.) **COLLECTION PRACTICES ACT**
16)
17 **CAPITAL MANAGEMENT**)
18 **SERVICES, L.P.,**)
19 Defendant.)

20 **NATURE OF ACTION**

21 1. This is an action brought under the Fair Debt Collection Practices
22 Act (“FDCPA”), 15 U.S.C. § 1692 *et seq.*, and the Telephone Consumer
23 Protection Act (“TCPA”), 47 U.S.C. § 227.

24 **JURISDICTION AND VENUE**

25 2. This Court has jurisdiction under 15 U.S.C. § 1692k(d), 47 U.S.C. §
26
27 227(b)(3), 28 U.S.C. § 1331, and 28 U.S.C. § 1367(a).

28 COMPLAINT FOR VIOLATIONS OF THE FAIR
DEBT COLLECTION PRACTICES ACT-1

WEISBERG & MEYERS, LLC
3877 N. Deer Lake Rd.
Loon Lake ,WA 99148
509-232-1882
866-565-1327 facsimile
jrobbins@AttorneysForConsumers.com

1 which the money, property, insurance, or services that are the subject of the
2 transaction were incurred primarily for personal, family, or household purposes.
3

4 10. Defendant uses instrumentalities of interstate commerce or the mails
5 in a business the principal purpose of which is the collection of any debts, and/or
6 regularly collects or attempts to collect, directly or indirectly, debts owed or due,
7 or asserted to be owed or due another.
8

9 11. Within one (1) year preceding the date of this Complaint, Defendant
10 made and/or placed a telephone call to Plaintiff's cellular telephone number, in
11 effort to collect from Plaintiff an obligation, or alleged obligation, owed or due,
12 or asserted to be owed or due a creditor other than Defendant.
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15 12. Within one (1) year preceding the date of this Complaint, Defendant
16 willfully and knowingly utilized an automatic telephone dialing system to make
17 and/or place a telephone call to Plaintiff's cellular telephone number, in effort to
18 collect from Plaintiff an obligation, or alleged obligation, owed or due, or asserted
19 to be owed or due a creditor other than Defendant.
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22 13. In connection with collection of an alleged debt in default,
23 Defendant's agent and/or employee "Pam" placed a call to Plaintiff's cellular
24 telephone on September 8, 2011 at 8:24 A.M., and at such time, left a voicemail
25 message asking Plaintiff to return the call.
26
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1 14. Defendant placed a call to Plaintiff's cellular telephone on
2 September 9, 2011 at 8:16 A.M., and at such time, left a voicemail message
3 asking Plaintiff to return the call.
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5 15. Defendant's agent and/or employee "Pam" called Plaintiff's mother,
6 Joann Maynard, on September 9, 2011, and at such time, Defendant's agent
7 and/or employee provided the identity of Defendant without such information
8 being expressly requested.
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10

11 16. Pam then told Ms. Maynard that she was a debt collector looking for
12 Plaintiff's location information.
13

14 17. Pam asked Ms. Maynard to give Plaintiff the message and to have
15 her contact Defendant "about the money she owes."
16

17 18. Ms. Maynard confirmed that she was Plaintiff's mother, but did not
18 give Defendant Plaintiff's location information.
19

20 19. Defendant then sent Plaintiff initial written communication dated
21 September 9, 2011 to Plaintiff's home address.
22

23 20. Defendant's agent and/or employee "Rael" called Ms. Maynard on
24 September 13, 2011, and at such time, Defendant's agent and/or employee
25 provided the identity of Defendant without such information being expressly
26 requested.
27

1 21. In his conversation with Plaintiff's mother on September 13, 2011,
2 Rael "emphatically" demanded Plaintiff's social security number, date of birth,
3 address, and telephone number.
4

5 22. Defendant's actions constitute conduct highly offensive to a
6 reasonable person.
7

8 **COUNT I**
9 **VIOLATION OF 15 U.S.C. § 1692b**

10 23. Plaintiff repeats and re-alleges each and every allegation contained
11 above.
12

13 24. Defendant violated 15 U.S.C. § 1692b by contacting a third party,
14 Plaintiff's mother, after obtaining Plaintiff's location information and demanding
15 Plaintiff's personal information.
16

17 WHEREFORE, Plaintiff prays for relief and judgment, as follows:
18

- 19 a) Adjudging that Defendant violated 15 U.S.C. § 1692b;
20 b) Awarding Plaintiff statutory damages, pursuant to 15 U.S.C. §
21 1692k, in the amount of \$1,000.00;
22 c) Awarding Plaintiff actual damages, pursuant to 15 U.S.C. § 1692k;
23 d) Awarding Plaintiff reasonable attorneys' fees and costs incurred in
24 this action;
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26
27

e) Awarding Plaintiff any pre-judgment and post-judgment interest as may be allowed under the law;

f) Awarding such other and further relief as the Court may deem just and proper.

COUNT II
VIOLATION OF 15 U.S.C. §§ 1692b(1)

25. Plaintiff repeats and re-alleges each and every allegation contained above.

26. Defendant violated 15 U.S.C. §§ 1692b(1) by providing the identity of Defendant to a third party, Plaintiff's mother, without such information being expressly requested.

WHEREFORE, Plaintiff prays for relief and judgment, as follows:

- a) Adjudging that Defendant violated 15 U.S.C. §§ 1692b(1);
- b) Awarding Plaintiff statutory damages, pursuant to 15 U.S.C. § 1692k, in the amount of \$1,000.00;
- c) Awarding Plaintiff actual damages, pursuant to 15 U.S.C. § 1692k;
- d) Awarding Plaintiff reasonable attorneys' fees and costs incurred in this action;

e) Awarding Plaintiff any pre-judgment and post-judgment interest as may be allowed under the law;

f) Awarding such other and further relief as the Court may deem just and proper.

**COUNT III
VIOLATION OF 15 U.S.C. §§ 1692b(2)**

27. Plaintiff repeats and re-alleges each and every allegation contained above.

28. Defendant violated 15 U.S.C. §§ 1692b(2) by disclosing to a third party the existence of the debt allegedly owed by Plaintiff.

WHEREFORE, Plaintiff prays for relief and judgment, as follows:

- a) Adjudging that Defendant violated 15 U.S.C. §§ 1692b(2);
- b) Awarding Plaintiff statutory damages, pursuant to 15 U.S.C. § 1692k, in the amount of \$1,000.00;
- c) Awarding Plaintiff actual damages, pursuant to 15 U.S.C. § 1692k;
- d) Awarding Plaintiff reasonable attorneys' fees and costs incurred in this action;
- e) Awarding Plaintiff any pre-judgment and post-judgment interest as may be allowed under the law;

1 f) Awarding such other and further relief as the Court may deem just
2 and proper.
3

4 **COUNT IV**
5 **VIOLATION OF 15 U.S.C. §§ 1692b(3)**

6 29. Plaintiff repeats and re-alleges each and every allegation contained
7 above.
8

9 30. Defendant violated 15 U.S.C. §§ 1692b(3) by communicating with a
10 single third party, Plaintiff's mother, more than once in connection with an
11 attempt to collect an alleged debt from Plaintiff.
12

13 WHEREFORE, Plaintiff prays for relief and judgment, as follows:

- 14 a) Adjudging that Defendant violated 15 U.S.C. §§ 1692b(3);
15
16 b) Awarding Plaintiff statutory damages, pursuant to 15 U.S.C. §
17 1692k, in the amount of \$1,000.00;
18
19 c) Awarding Plaintiff actual damages, pursuant to 15 U.S.C. § 1692k;
20
21 d) Awarding Plaintiff reasonable attorneys' fees and costs incurred in
22 this action;
23
24 e) Awarding Plaintiff any pre-judgment and post-judgment interest as
25 may be allowed under the law;
26
27 f) Awarding such other and further relief as the Court may deem just
28

1 and proper.

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3 **COUNT V**
4 **VIOLATION OF 15 U.S.C. § 1692c(b)**

5 31. Plaintiff repeats and re-alleges each and every allegation contained
6 above.

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8 32. Defendant violated 15 U.S.C. § 1692c(b) by without having received
9 the prior consent of Plaintiff or the express permission of a court of competent
10 jurisdiction, and without it being necessary to effect a post-judgment remedy,
11 communicating with a third party other than in the manner prescribed by 15
12 U.S.C. § 1692b et seq.
13

14 WHEREFORE, Plaintiff prays for relief and judgment, as follows:
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- 16 a) Adjudging that Defendant violated 15 U.S.C. § 1692c(b);
17
18 b) Awarding Plaintiff statutory damages, pursuant to 15 U.S.C. §
19 1692k, in the amount of \$1,000.00;
20
21 c) Awarding Plaintiff actual damages, pursuant to 15 U.S.C. § 1692k;
22
23 d) Awarding Plaintiff reasonable attorneys' fees and costs incurred in
24 this action;
25
26 e) Awarding Plaintiff any pre-judgment and post-judgment interest as
27 may be allowed under the law;

1 f) Awarding such other and further relief as the Court may deem just
2 and proper.
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4 **COUNT VI**
5 **VIOLATION OF 47 U.S.C. § 227(b)(1)(A)(iii)**

6 33. Plaintiff repeats and re-alleges each and every allegation contained
7 above.
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9 34. Defendant violated 47 U.S.C. § 227(b)(1)(A)(iii) by willfully and
10 knowingly utilizing an automatic telephone dialing system to make and/or place a
11 telephone call to Plaintiff's cellular telephone number.
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13 WHEREFORE, Plaintiff prays for relief and judgment, as follows:

- 14 a) Adjudging that Defendant violated 47 U.S.C. § 227(b)(1)(A)(iii);
15
16 b) Awarding Plaintiff statutory damages, pursuant to 47 U.S.C. §
17 227(b)(3)(B), in the amount of \$500.00 per violation;
18
19 c) Awarding Plaintiff statutory damages, pursuant to 47 U.S.C. §
20 227(b)(3)(C), in the amount of \$1,500.00 per violation;
21
22 d) Awarding Plaintiff actual damages, pursuant to 47 U.S.C. §
23 227(b)(3)(B);
24
25 e) Awarding Plaintiff reasonable attorneys' fees and costs incurred in
26 this action;
27

1 f) Awarding Plaintiff any pre-judgment and post-judgment interest as
2 may be allowed under the law.
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4 **TRIAL BY JURY**

5 Plaintiff is entitled to and hereby demands a trial by jury.
6

7 Respectfully submitted this 22ND day of November, 2011.
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9
10 s/Jon N. Robbins
11 Jon N. Robbins
12 WEISBERG & MEYERS, LLC
13 Attorney for Plaintiff
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